



[OMB Control No. 3090-XXXX; Docket No. 2023-0001; Sequence No. 1]

**Submission for OMB Review; Overseas Employment Agreement; GSA Form 5040**

**AGENCY:** Office of Human Resources Management, General Services Administration (GSA).

**ACTION:** Notice of the results of public comments regarding a request for a new OMB clearance.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division has submitted to the Office of Management and Budget (OMB) a request to review and approve a new information collection requirement.

**DATES:** Submit comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*.]

**ADDRESSES:** Written comments and recommendations for this information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](https://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting "Currently under Review - Open for Public Comments" or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Colin C. Bennett, Senior Policy Specialist, Office of Human Resources Management, at telephone (717)-359-7735, or [Colin.Bennett@gsa.gov](mailto:Colin.Bennett@gsa.gov).

**SUPPLEMENTARY INFORMATION:** The General Services

Administration routinely hires, reassigns, promotes, or transfers Federal employees to duty stations in foreign areas (i.e., outside of the United States and its territories and possessions). Under the Administrative Expenses Act of 1946 (60 stat. 808), as amended, agencies are permitted to use appropriated funds to pay for the various costs incurred for permanent change of station (PCS) to the foreign area (see further 5 U.S.C. 5722 et. seq.). Such costs include: (1) travel and relocation expenses of the new appointee (or employee) and his or her immediate family from the place of actual residence in the U.S. to the place of employment outside the U.S.; (2) return travel and relocation expenses for an employee and his family from his post outside the U.S. to his or her actual place of residence in the U.S.; and (3) the additional expenses of transporting a privately owned motor vehicle, as authorized under 5 U.S.C. 5723 and 5727(c). Under these relocation authorities, in return for these benefits, the job candidate (or employee) must agree to remain in the agency's service for at least 12 months (i.e., 1 year). Additional information concerning this authority is found within the GSA Government Travel Regulations at 41 CFR part 302-3, subpart F.

To more effectively memorialize the agency costs incurred, and the appointee's (or employee's) resulting

service obligation, GSA has redeveloped its existing form GSA 5040, *Overseas Employment Services Agreement*. This form serves as: (1) an information collection device to determine eligibility for, and then memorialize, the compensation, foreign allowances, and travel and transportation benefits provided, and (2) an enforceable service agreement for PCS travel and transportation costs, pursuant to the Federal Claims Collection Act of 1966 and the Debt Collection Act Amendments of 1996 (see further 31 U.S.C. 3711 et. seq.).

#### **C. Annual Burden**

Respondents: 25.

Responses per Respondent: 1.

Total Annual Responses: 25.

Hours per Response: 1.

Total Burden Hours: 25.

#### **D. Public Comment**

A 60-day notice was published in the *Federal Register* at 88 FR 9521, on February 14, 2023.

A total of nine (9) comments were received; however, they involved proposed wording changes for the form and did not address, or change, the original estimate of the administrative burden. A summary of the comments, and our responses, are as follows.

**Comment 1:** A commenter suggested that the nomenclature of military bases in Box 6 be revised to reflect military "installations."

**Response:** This response is accepted, and the names will be changed to reflect military installations.

**Comment 2:** A commenter suggested that a general response, such as "Nationwide," be permissible for writing into Box 8b, which describes the anticipated U.S. duty station upon conclusion of overseas duty.

**Response:** This response is accepted and the Instruction for Box 8b will be revised to suggest that users can use descriptive, but generic, responses when appropriate.

**Comment 3:** A commenter noted that there was an erroneous reference to direct-deposit forms in the Privacy Act Statement.

**Response:** This response is accepted. We will have the form corrected to have this reference removed.

**Comment 4:** A commenter questioned the authority for Box 11 as well as the information provided in the Instruction for that question at the back of the form. Box 11 discusses the employee benefits known as "home leave" and the 45-day (i.e., 360 hour) annual leave accrual ceiling. These two authorities are related because to be eligible for home leave, the job candidate must first be eligible for the 45-day leave accrual ceiling under 5 U.S.C. 6304(b). Both the 45-day leave ceiling and home leave are reserved for

employees that are originally hired, reassigned, or transferred from the United States and then placed into a foreign area. Generally, job candidates already in a foreign area are not eligible for either benefit unless they can demonstrate that they were originally hired from the United States, have been in continuous employment with the U.S. government or a U.S. entity, and have return relocation benefits memorialized by written transportation agreements during all periods of foreign service.

**Response:** The eligibility requirements discussed in Box 11 and the Instruction are an explication of the governing statute (5 U.S.C. 6304(b)) and Civil Service regulation (5 CFR 630.602). We have decided to keep the narrative language within Box 11 the same, however, we have decided to shorten the language within the Instruction statement related to Box 11 to reduce possible confusion.

**Comment 5:** A commenter suggested that Box 12 be removed from the form and that the form be signed not by a human resources specialist but instead by the hiring manager. Box 12 concerns documentation of which overseas allowances and differentials are authorized for the job candidate.

**Response:** We partially accept the comment and will change the form's signature to that of the hiring manager, as the commenter suggested. We note that under GSA administrative order 5450.39D ADM CHGE 1 that generally the hiring manager's organization decides which overseas

allowances are appropriate to provide, based upon the lexicon of those that are available based on eligibility. Generally, the hiring manager's organization is responsible for paying for the allowances offered, since the allowances are used as optional tools for recruitment and retention. We will not remove Box 12, however, because it is important to document on this form which allowances and differentials are approved and then offered to the job candidate.

**Comment 6:** A commenter from GSA's human resources function recommended that Box 11 be removed from the form. Box 11, as discussed above, concerns home leave and the 45-day annual leave accrual ceiling. The commenter believed that human resources specialists are unfamiliar with paid leave authorities and do not have sufficient background to understand how to assist with, or administer, these leave authorities.

**Response:** We have chosen not to accept this comment. It is important to have Box 11 to both review the eligibility, and then to document that eligibility, for home leave as well as for the 45-day annual leave ceiling. We also believe that current skills gaps can be addressed and ameliorated through a proper future training regimen.

**Comment 7:** A commenter suggested that in Box 9 a reference be removed to obsolete Form 5042, *Overseas Employment Transportation Agreement*.

**Response:** We agree that the reference to the obsolete form should be removed. The historical business purpose of Form 5042 (that of a transportation agreement) has been fully merged into the new Form 5040, the subject of this Federal Register notice.

**Comments 8 and 9:** One commenter submitted two substantially similar comments essentially suggesting that the main certifying signature on the form be applied by the hiring manager rather than by a human resources specialist.

**Response:** As discussed earlier, we accept this comment and will change the certifying signature to be that of the hiring manager. As the primarily first-line representative of the agency, the hiring manager is in the best position to know the specific circumstances of the job offer, and the conditions of employment offered to the job candidate.

**OBTAINING COPIES:** Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division, by calling 202-501-4755 or emailing [GSAREgSec@gsa.gov](mailto:GSAREgSec@gsa.gov). Please cite OMB Control No. 3090-XXXX, Overseas Employment Agreement; GSA Form 5040.

**Lesley Briante,**  
*Acting Deputy Chief Information Officer.*

**Billing Code: 6820-FM**